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* OCT 22, 2019
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

YELENA LYSYAK,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiff,

v.

HOME ATTENDANT SERVICE OF HYDE
PARK, INC. (d/b/a HOME ATTENDANT
SERVICES OF HYDE PARK),

Defendant.

Case No.: 18 Civ. 259 (KAM) (JO)

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STIPULATION AND [PROPOSED] ORDER OF
VOLUNTARY DISMISSAL PURSUANT TO
F.R.C.P. 41(a)(1)(A)(ii)

IT IS HEREBY STIPULATED AND AGREED by the undersigned attorneys for all parties in this action that this matter shall proceed to arbitration before Martin F. Scheinman, Esq. under the following arbitration procedures described below:

- (1) The parties agree that all discovery procedures available under the Federal Rules of Civil Procedure will be available in the arbitration and that Mr. Scheinman will have the authority to resolve all discovery disputes;
- (2) All rulings previously made in this litigation will be the law of the case;
- (3) Specific to the facts present in this case and for resolution of the pending issues before the Court, the parties agree to hold arbitration on a class-wide basis; and
- (4) Defendant will pay all arbitration costs.

IT IS FURTHER HEREBY STIPULATED AND AGREED by the undersigned attorneys for all parties in the above-captioned action that all rulings by Mr. Scheinman shall be final and binding and that Plaintiffs' claims shall proceed to a trial/arbitration within 30-days from the date of this Court's entry of this stipulation and proposed order. The parties further agree that all Class Members will be promptly notified of the arbitrator's merits rulings and that any Class Member

that does not want to be bound by the arbitrator's ruling will have the opportunity to opt-out of the Class.

IT IS FURTHER HEREBY STIPULATED AND AGREED by the undersigned attorneys that they shall withdraw all pending motions, that all remaining deadlines in this action be stayed pending the dismissal of the pending action, and that the claims of Plaintiff Yelena Lysyak are hereby voluntarily dismissed without prejudice, pursuant to the Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Dated: October 16, 2019

Wittels Law, P.C.

By: /s/ Steven L. Wittels
Steven L. Wittels, Esq.
Attorney for Plaintiff
18 Half Mile Road
Armonk, NY 10504
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Dated: October 16, 2019

Garfunkel Wild, P.C.

By: /s/ Salvatore Puccio
Salvatore Puccio, Esq.
Attorney for Defendant
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Great Neck, New York 11021
Telephone: (516) 393-2200
spuccio@garfunkelwild.com

Dated: Oct 17, 2019

SO ORDERED:

/s/ USDJ KIYO A. MATSUMOTO

Hon. Kiyo A. Matsumoto
UNITED STATES DISTRICT JUDGE

The parties are directed to provide a copy of this Stipulation and Order to the arbitrator who shall conduct a review pursuant to Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015) of any settlement reached by the parties in this matter. K.a.m.